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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,317	12/02/2003	Bradley J. Mahood	6.30.3246 US	2697
7590	06/01/2005		EXAMINER GEHMAN, BRYON P	
James W. Kerr 303 Richmond Street London, ON N6B 2H8 CANADA			ART UNIT 3728	PAPER NUMBER

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/725,317

Applicant(s)

MAHOOD ET AL.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-14 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

2. The abstract of the disclosure is objected to because in line 3, "the join" lacks antecedent basis, and in line 5, "whilst" is not proper English. Correction is required.  
See MPEP § 608.01(b).

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 1, "an unitary" is ungrammatical. In lines 3-4, "adapted to be secured to each other" is indefinite, as in the carton they must be secured to each other.

In claim 7, line 3, "said joint" lacks antecedent basis for one.

In claim 9, line 4, "two or said outer walls" does not make sense. In line 6, "each saw panel" lacks antecedent basis. In lines 10-11, "both lines" is indefinite, as more than two lines have been previously defined.

In claim 13, "cms" is indefinite as an abbreviation, as such has not been defined as centimeters.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilchrist (3,533,549) in view of Schmidt et al. (2,754,047). Gilchrist discloses a carton for beverage containers comprising a unitary blank having fold lines (20-24) serially defining a top wall (18), a first side wall (16), a bottom wall (14) and a second side wall (12), the top wall and second side wall being secured to each other at a further fold line (26) forming a sleeve of rectangular cross-section, each wall having a flap (30-36) at each end, the top wall (18) having a severable panel (64 or 66) defined by two lines of weakness (52, 56) extending parallel or coincident with the joint lines of the carton top wall to a further line of weakness (62) extending laterally of the top wall. Schmidt et al. disclose a carton having a top wall severable panel (39) defined by two lines of weakness (37, 37) extending parallel and spaced from the joint lines of the carton top wall to a further line of weakness (35) extending laterally of the top wall. To modify the severable panel of Gilchrist employing the construction of the severable panel as disclosed by Schmidt et al. would have been obvious in order to reinforce both peripheral rims in the manner disclosed by Gilchrist (see column 2, lines 5-15).

As to claims 3-4 and 12, to have the two lines of weakness extend the full length of the top wall would have been obvious in order to increase the size of the opening to facilitate access to the interior of the carton.

As to claim 5, the carton is inherently adapted to contain various numbers of containers of various sizes.

As to claims 6 and 11, Gilchrist discloses a corrugated board carton wherein the corrugations are disclosed to run in either one direction or the other (see column 3, lines 5-8).

As to claim 13, the exact spacing of the lines of weakness from their adjacent joint lines would have been an obvious matter of choice and degree, and also depend on the relative size of the carton.

As to claims 8 and 14, Gilchrist discloses a hand hole (42).

7. Claims 6 and 11 are further rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 9 above, and further in view of Steck (3,542,192). Gilchrist discloses a corrugated board carton wherein the corrugations are disclosed to run in either one direction or the other (see column 3, lines 5-8). Steck discloses a carton wherein flutes of the corrugated board are perpendicular to the tearing lines to render these lines more susceptible to tearing. To modify the flute direction of Gilchrist to be perpendicular to the first two lines of weakness would have been obvious in order to facilitate their tearing over that of the third line of weakness.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Bakx (4,440,340). Bakx discloses lines of weakness constituted by L-shaped slits (x). The line of weakness composition was previously known in the filed of beverage carton opening mean. To substitute the previously recognized line of weakness composition of Bakx for that of Gilchist would fail to distinguish any new and unexpected result.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are cartons with a severable top panel.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

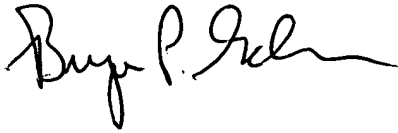
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic  
Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bryon P. Gehman  
Primary Examiner  
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BPG